

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

The meeting was called to order by Bill Morris at  
Chairperson

9:00 a.m./~~p.m.~~ on February 5, 1985 in room 254-E of the Capitol.

All members were present except:

Sen. Frey

Sen. Walker was excused.

Committee staff present:

Hank Avila - Research

Fred Carman - Revisor

Louise Cunningham - Secretary

Conferees appearing before the committee:

Bill Wright - Acting Secretary of Transportation and State Transportation Engineer

M. O'Keefe - Department of Transportation

On a motion from Sen. Thiessen and a second from Sen. Hayden the Minutes of January 24, 1985 and January 30, 1985 were approved. Motion carried.

Copies of proposed legislation were distributed which would provide for notices to operators of underground facilities by persons excavating or discharging explosives near underground facilities. The Chairman said in excavating a contractor might disrupt a line in the ground and this legislation would make an 800 number available where a contractor could call and determine if anything is buried there to avoid damaging underground facilities. A copy of the proposed legislation is attached. (Attachment 1). A motion was made by Sen. Norvell and seconded by Sen. Hayden to introduce the bill as a Committee Bill.

Bill Wright, Acting Secretary of Transportation, reported on transportation related issues. He spoke of the progress as the result of the highway funding bill passed by the 1983 legislature. A copy of his report dated February 5, 1985, is attached. (Attachment 2).

Mr. Wright was questioned about the use of overlays and was told some contractors had questioned this, saying it was a complete waste of time and money, and merely a band-aid approach. Mr. Wright said if the money was available more than 3/4" overlay would be used but they find that the results on using 3/4" to 1" overlay have been very successful, generally speaking.

Mr. O'Keefe said they had to rehabilitate as many miles as possible with available funds and if they did not use the overlay many of the roads would totally deteriorate.

Mr. Wright said anticipated revenues are not being produced because of the reduction in fuel prices, the growth in gasohol use (which is subsidized), and the loss of motor vehicle sales tax receipts because of higher mileage vehicles.

The Chairman informed the Committee that the House of Representatives in the state of Arkansas had just passed legislation which would abolish their subsidy on gasohol.

There was some discussion on using honor camp inmates to perform supervised routine maintenance at rest areas. Mr. Wright said there had been a problem with getting equipment and making sure they have adequate supervision, but they do intend to utilize them in the future.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES,  
room 254-E, Statehouse, at 9:00 a.m./~~p.m.~~ on February 5, 1985.

The Transportation Department was also asking for legislation to provide discretionary authority to set aside certain projects for minority businesses. There have been some abuses in the past but Mr. Wright said Kansas is doing a good job to certify these businesses. The Department is not perfect but when they find a problem they go after it and said there had been only a few cases of "fronts" in Kansas.

Mr. Wright introduced members of the Transportation Department who were present. They were Michael O'Keefe, Planning and Development; Larry Morlan, Management and Budget; and Ed DeSoignie, Policy Coordinator, Management and Budget.

Meeting was adjourned at 9:45 a.m.

SENATE TRANSPORTATION & UTILITIES COMMITTEE

Date 2-5-84 Place 254-E Time 9:00

GUEST LIST

PLEASE PRINT

NAME

ADDRESS (City)

ORGANIZATION

<u>Grace Mattiri</u>		<u>Senator Walker - Intern</u>
<u>John D McNeal</u>	<u>Topeka</u>	<u>Observer</u>
<u>W.H. Wright</u>	<u><del>KDOT</del>"</u>	<u>KDOT</u>
<u>M O Keefe</u>		<u>KDOT</u>
<u>L. P. MORLAN</u>		<u>KDOT</u>
<u>Tom Whitaker</u>	<u>Topeka</u>	<u>Ks Motor Carriers Assn</u>
<u>D. WAYNE ZIMMERMAN</u>	<u>TOPEKA</u>	<u>THE ELECTRIC COS ASSOC OF KS.</u>
<u>Jerry Cooney</u>	<u>"</u>	<u>KG &amp; E</u>
<u>Glenn Coulter</u>	<u>Topeka</u>	<u>Ks Contractors Assoc</u>
<u>Ed DeSoignie</u>	<u>Topeka</u>	<u>KDOT</u>
<u>Bill Green</u>	<u>TOPEKA</u>	<u>State emp. emp.</u>

PROPOSED DAMAGE PREVENTION LEGISLATION

An Act to protect the public safety by providing for notices to operators of underground facilities by persons excavating or discharging explosives near underground facilities; to provide for notice to affected parties when underground facilities are damaged; to provide penalties for failure to give such notice.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1 - Definitions as used in this Act:

- (a) "Damage" means any impact or contact with an underground facility, its appurtenances or its protective coating, or weakening of the support for the facility or protective housing, which requires repair;
- (b) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage;
- (c) "Excavation" means any operation in which earth, rock, or other material below ground, is moved or otherwise displaced by any means, but not including the tilling of soil for agricultural purposes, or for road and ditch maintenance that does not change the original road grade or ditch flowline.
- (d) "Facility" means any underground line, system, or structure used for producing, gathering, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage, or any other similar commodities;
- (e) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American Public Work Association;
- (f) "Operator" means any person who owns or operates an underground facility, except for any person who is the owner of real property, wherein are located underground facilities for the purpose of furnishing services or materials only to himself or occupants of such property;
- (g) "Person" means an individual, partnership, corporation, association, franchise holder, a state, a city, a county, or any governmental subdivision or instrumentality of a state and its employees, agents or legal representatives; and
- (h) "Working Day" means every day, except Saturday, Sunday or a legal local, state or federal holiday.

SECTION 2 - A person shall not excavate, tunnel, or discharge explosives in a street, highway, or public place, a private or public easement, or near the location of an underground facility without having first ascertained in the manner prescribed, the location of all underground facilities in the proposed area of excavation, tunneling, or discharging of explosives.

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SECTION 3 - A person responsible for excavating, tunneling, or discharging explosives, in a street, highway, or other public place, shall serve ~~with~~ notice of intent to excavate, tunnel, or discharge explosives at least two full working days, excluding Saturdays, Sundays, and holidays, but not more than 10 working days before commencing the excavating, tunneling, or discharging of explosives on operators having underground facilities located in the proposed area of excavation, tunneling, or discharging of explosives.

The ~~with~~ notice of intent shall contain the name, address and telephone number of the person filing the notice of intent, the name of the person performing the excavation, tunneling, or discharging of explosives, the date, type and location of the excavation, tunneling, or discharging of explosives.

SECTION 4 - In areas where two or more operators of underground facilities have formed an association providing for mutual receipt of notification of construction activities, notification to the association may be effected as set forth by the above or by telephone call, providing the same information as required above by the person responsible for the excavating, tunneling, or discharging of explosives. If notification is made by telephone, an adequate record shall be maintained by the association to document compliance with the requirements of this Act.

SECTION 5 - An operator served with the notice above shall, not less than one working day in advance of the proposed construction, unless otherwise agreed between the parties, inform the person of the approximate location of the underground facilities owned and operated in the area of excavation, tunneling, or discharging of explosives, in a manner as to enable the person to employ hand-dug test holes or other means of establishing the precise location of the underground facilities in advance of construction or excavation. If the precise location of the underground facilities cannot be established, the person shall then notify the operator, who shall provide further assistance as may be needed to determine the precise location of the underground facility in advance of the proposed excavation, tunneling, or discharging of explosives.

SECTION 6 - In the case of emergency involving danger to life, health, or property or which requires immediate correction in order to continue the operation of a major industrial plant, or to assure the continuity of public utility service, excavation, maintenance or repairs may be made without using explosives if notice and advice thereof, in writing or otherwise, is given to the operator or association as soon as reasonably possible.

SECTION 7 - This Act shall not be construed to authorize, affect or impair local ordinances, charters or other provisions of law requiring permits to be obtained before excavating or tunneling in a public street or highway. A permit issued by a public agency shall not be deemed to relieve a person from the responsibility for complying with the provisions of this Act.

SECTION 8 - Upon receiving the information provided for in Sections 4 or 5, a person excavating, tunneling, or discharging explosives, shall exercise reasonable care when working in close proximity to any underground facilities. If the facilities are to be exposed, or are likely to be exposed, only hand digging shall be employed in such circumstances and such support as may be reasonably necessary for protection of the facilities shall be provided in and near the construction area.

SECTION 9 - When any contact with or damage to any pipe, cable, or its protective coating, or any other underground facility of an operator occurs, the operator shall be notified immediately by the person responsible for the operations causing the damage. Upon receiving the notice, the operator shall dispatch personnel to the location as soon as possible to effect temporary or permanent repairs of the damage. If a serious electrical short is occurring, or if dangerous fluids or gases are escaping from a broken line, the person responsible for the operations causing the damage shall evacuate the immediate area while awaiting the arrival of the operator personnel.

SECTION 10 - In a civil action in a court of this state, when it is shown by competent evidence that damage to the underground facilities of an operator resulted from excavating, tunneling, or discharging explosives, as described in Section 2, and that the person responsible for giving the notice of intent to excavate, tunnel, or discharge explosives, failed to give the notice, or the person did not employ hand digging or failed to provide support, the person is deemed prima facie guilty of negligence.

SECTION 11 - A person who damages the facilities of an operator on more than three occasions on any one construction contract location because of his failure to comply with any of the provisions of this Act, may be enjoined from engaging in any further excavating, tunneling, or discharging of explosives within the State, except under such terms and conditions as the court may prescribe to ensure the safety of the public. A court may prescribe such penalties as it deems necessary or appropriate for violation of the injunctive order up to a maximum of \$1,000.00 per violation. All penalties recovered in such actions shall be deposited in the general fund.

SECTION 12 - A person who willfully violates any provision of this Act shall be fined not more than \$1,000.00 for each offense. These penalties are in addition to any civil liability. A person who willfully removes or otherwise destroys the stakes or other physical markings used by an operator to mark the approximate location of underground facilities, is guilty of a Class A misdemeanor.

SECTION 13 - If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 3 - A person responsible for excavating, tunneling, or discharging explosives, in a street, highway, or other public place, shall make reasonable efforts to ascertain operators having underground facilities located in the proposed area of excavation, tunneling, or discharging of explosives and serve on such operators <sup>2</sup> Notice of intent to excavate, tunnel, or discharge explosives at least two full working days before commencing the excavating, tunneling, or discharging of explosives. Reasonable efforts to ascertain operators of underground facilities shall include notice to the association described in Section 4.

The notice of intent shall include the name, address and telephone number of the person serving notice of intent, the name of the person performing the excavation, tunneling, or discharging of explosives, the date, type and location of the excavation, tunneling, or discharging of explosives.

# KANSAS DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING—TOPEKA, KANSAS 66612



JOHN B. KEMP, Secretary of Transportation

JOHN CARLIN, Governor

MEMORANDUM TO: SENATE TRANSPORTATION AND UTILITIES COMMITTEE

FROM: WILLIAM H. WRIGHT, P.E.  
STATE TRANSPORTATION ENGINEER AND ACTING SECRETARY OF TRANSPORTATION

DATE: FEBRUARY 5, 1985

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM BILL WRIGHT, STATE TRANSPORTATION ENGINEER AND ACTING SECRETARY OF TRANSPORTATION. I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE TODAY TO OUTLINE AND DISCUSS TRANSPORTATION RELATED ISSUES. SECRETARY KEMP ALWAYS LOOKS FORWARD TO MAKING THIS VISIT WITH YOU, HOWEVER, HE IS STILL RECUPERATING.

## MULTI-YEAR PROGRAM

THE SECRETARY AND I ARE PLEASED TO REPORT THAT OUR HIGHWAY PROGRAM IS CURRENTLY PROGRESSING CONSISTENT WITH THE DIRECTION ENVISIONED FOLLOWING PASSAGE BY THE 1983 LEGISLATURE OF HOUSE BILL 2566. AS A RESULT OF THAT HIGHWAY FUNDING BILL, WE HAVE MADE SIGNIFICANT AND NECESSARY ADVANCES IN THE PRESERVATION AND IMPROVEMENT OF OUR HIGHWAY SYSTEM. THE 5-YEAR PROGRAM CONSISTS OF:

- + SURFACE PRESERVATION: APPROXIMATELY 1,000 MILES ANNUALLY OF SEALS AND OVERLAYS UP TO 1 1/2 INCHES. OUR LATEST PAVEMENT SURVEY SHOWS THAT THE POLICY IS BEGINNING TO PAY OFF. THE PERCENTAGE OF MILES WITH GOOD SURFACE INCREASED FROM 51 PERCENT IN THE 1983 SURVEY TO 65 PERCENT IN THE 1984 SURVEY. THE PERCENTAGE OF DETERIORATING MILES DECREASED FROM 29 TO 22 PERCENT AND DETERIORATED MILES DECREASED FROM 20 PERCENT TO 13 PERCENT.

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THESE THIN TREATMENTS KEEP THE SYSTEM IN GOOD CONDITION IN MANY LOCATIONS, KEEP IT FROM GETTING WORSE IN OTHERS, AND PROVIDE A BAND-AID UNTIL WE CAN GET TO A REHABILITATION TREATMENT ON STILL OTHERS.

- + REHABILITATION AND RECONSTRUCTION: WE DID APPROXIMATELY 114 MILES IN FY 1984 AND HAVE SCHEDULED APPROXIMATELY 470 MILES FOR FY 1985-1989. THESE IMPROVEMENTS GENERALLY PROVIDE A 20 YEAR PAVEMENT DESIGN LIFE AND IMPROVE SAFETY AND CAPACITY.
  
- + NEW CONSTRUCTION: WE HAVE A PROGRAM INVOLVING INTERSTATE GAP CLOSINGS, SCHEDULED FREEWAY PROJECTS AND ECONOMIC DEVELOPMENT PROJECTS. OTHER APPARENT NEW CONSTRUCTION IS ACTUALLY RECONSTRUCTION WHERE WE FIND IT CHEAPER TO MOVE OFF THE OLD ALIGNMENT.
  
- + BRIDGES: THIS IS AN EMPHASIS AREA WITH WORK TENTATIVELY SCHEDULED ON NEARLY 300 BRIDGES OVER THE NEXT 5 YEARS.

THE FIVE YEAR CONSTRUCTION PROGRAM (2 FIRM AND 3 TENTATIVE) HAS HELD KDOT ACCOUNTABLE ON PRODUCTION, WHILE AT THE SAME TIME PROVIDING THE FLEXIBILITY TO ACQUIRE ALL RIGHT OF WAY NECESSARY FOR COMPLETION OF THE INTERSTATE SYSTEM. THE SECRETARY AND I HAVE EMPHASIZED WITHIN THE DEPARTMENT THE IMPORTANCE OF PRODUCING THE FIRM PROGRAM. WE HOLD EVERY ADMINISTRATOR IN THE AGENCY ACCOUNTABLE TO ACCOMPLISH THIS CONSTRUCTION PROGRAM.

IN FY 1984 KDOT UTILIZED, FOR THE FIRST TIME, A RECENTLY DEVELOPED PROJECT PRIORITY OPTIMIZATION SYSTEM, CONSISTENT WITH THE DIRECTION KDOT RECEIVED FROM THE 1979 LEGISLATURE. THE OBJECTIVE PROJECT SELECTION CRITERIA HAS PROVEN TO BE MOST EFFECTIVE IN MAXIMIZING AVAILABLE HIGHWAY REVENUES. SYSTEMS SUCH AS THIS REFLECT THE ONGOING EFFORTS OF KDOT TO UTILIZE FUNDING RESOURCES IN THE MOST EFFECTIVE AND ECONOMICAL MANNER.

I WOULD LIKE TO SPEND SOME TIME WITH YOU ON ONE PARTICULAR PART OF THE SYSTEM THAT CONCERNS US A GREAT DEAL - THE INTERSTATE.

#### INTERSTATE SYSTEM

EACH OF YOU SHOULD HAVE RECENTLY RECEIVED A DOCUMENT ENTITLED, "KANSAS INTERSTATE SYSTEM: STATUS, PROGRESS AND CONDITION". WE HOPE THROUGH THIS DOCUMENT TO MAKE YOU MORE AWARE OF A CRITICAL PART OF OUR HIGHWAY NETWORK.

THE NATIONAL INTERSTATE SYSTEM IS AUTHORIZED TO CONSIST OF 42,000 MILES. KANSAS IS AUTHORIZED A TOTAL OF 821 OF THOSE MILES. WE HAVE COMPLETED ALL EXCEPT APPROXIMATELY 10 MILES IN THE KANSAS CITY AREA. THE REMAINING MILES CONSIST OF APPROXIMATELY 9 MILES ON I-435 FROM KANSAS AVENUE NORTH TO THE MISSOURI STATE LINE AND ONE MILE ON I-670 FROM I-70 EAST TO THE MISSOURI STATE LINE. (WE RECENTLY OPENED 2.7 MILES OF I-435 FROM SANTA FE TRAIL DRIVE NORTHWEST TO 87TH STREET WHICH WERE UNOPENED AT THE TIME OF THE REPORT.) THIS SYSTEM CONSISTS OF LESS THAN ONE PERCENT OF ALL THE KANSAS MILES, BUT CARRIES NEARLY 17 PERCENT OF ALL OUR TRAFFIC.

FUNDS FOR COMPLETION OF THE INTERSTATE SYSTEM ARE NORMALLY APPORTIONED TO THE STATES ON THE BASIS OF EACH STATE'S PERCENTAGE OF THE TOTAL REMAINING COST TO COMPLETE THE SYSTEM. EVERY STATE IS GUARANTEED A MINIMUM OF ONE-HALF PERCENT OF THE AUTHORIZATION. I MUST POINT OUT TO YOU HOWEVER, THAT INTERSTATE COMPLETION IS GRINDING TO A HALT NATIONALLY BECAUSE THE CONGRESS HAS FAILED TO APPROVE THE INTERSTATE COST ESTIMATE FOR THE PAST ONE AND A HALF YEARS. THIS HAS RESULTED IN APPROXIMATELY \$30 MILLION IN KANSAS INTERSTATE COMPLETION FUNDS BEING TIED UP, AND \$7.2 BILLION BEING TIED UP NATIONALLY.

STATES CAN SEEK INTERSTATE DISCRETIONARY FUNDS WHICH ARE ALLOCATED BY THE U.S. SECRETARY OF TRANSPORTATION TO FOCUS ON CLOSING VITAL GAPS IN THE SYSTEM. WE HAVE BEEN EXTREMELY SUCCESSFUL IN THE PURSUIT OF THESE FUNDS OBLIGATING NEARLY \$100 MILLION SINCE FY 1980.

EVEN AS WE NEAR THE COMPLETION OF THE INTERSTATE SYSTEM, IN KANSAS, IS WEARING OUT AS MORE AND MORE SECTIONS REACH THE END OF THEIR DESIGN LIFE. THIS IS NOT A PROBLEM UNIQUE TO KANSAS. HOWEVER, IT IS SMALL CONSOLATION FOR THE FACT THAT 156 MILES, OR 25 PERCENT OF OUR SYSTEM, WILL BE DEFICIENT IN 1985. THAT WOULD GROW TO 90 PERCENT BY 1991 IF NO ACTIONS ARE TAKEN. CURRENTLY, 60 PERCENT OF THE SYSTEM IS IN GOOD CONDITION, 29 PERCENT IS DETERIORATING RAPIDLY, AND 11 PERCENT HAS ALREADY DETERIORATED.

WE HAVE PROGRAMMED ALL OF THE INTERSTATE 4R FUNDS ANNUALLY APPORTIONED TO KANSAS FOR REHABILITATION OF THE INTERSTATE SYSTEM. WE WILL RECEIVE AN AVERAGE OF APPROXIMATELY \$33 MILLION PER YEAR FOR THE FOUR YEARS COVERED IN THE 1982 SURFACE TRANSPORTATION ASSISTANCE ACT. THESE ARE 90/10 FUNDS AND CANNOT BE USED FOR MAINTENANCE TYPE ACTIONS.

IN PROGRAMMING THESE FUNDS, WE WERE FACED WITH TWO STRATEGIES FOR REHABILITATING THE SYSTEM. ONE STRATEGY IS TO DO MINIMUM TYPE ACTIONS, REPEATING THE ACTIONS FREQUENTLY. FOR EXAMPLE, WE COULD, OVERLAY SECTIONS OF THE INTERSTATE SYSTEM TO LAST FOR FIVE YEARS AND THEN GO BACK EVERY FIVE YEARS.

THE SECOND STRATEGY IS TO TAKE ACTIONS THAT WILL LAST TEN TO TWENTY YEARS. THIS IS MORE EXPENSIVE ON A PROJECT BY PROJECT BASIS. OUR ANALYSIS INDICATES, HOWEVER, THAT IT IS CHEAPER OVER THE TWENTY YEAR PERIOD TO REHABILITATE ALL THE PAVEMENT BACK TO A TWENTY YEAR DESIGN LIFE RATHER THAN REPEATING ACTIONS EVERY FIVE OR TEN YEARS.

I MUST POINT OUT TO YOU THAT THE AMOUNT OF PAVEMENT IN UNDESIRABLE CONDITION WILL BE MUCH GREATER IN THE EARLY YEARS BY PURSUING THIS SECOND OPTION. ONCE COMPLETED HOWEVER, WE WILL HAVE ELIMINAD THE "HUMP" WHERE MORE MILES NEED TO BE REHABILITATED THAN FUNDING IS AVAILABLE.

FUNDING

FUNDING IS ALSO AN ISSUE OF CONCERN TO US. AS YOU KNOW, THE 1983 LEGISLATURE PASSED HOUSE BILL 2566 - A MAJOR HIGHWAY FUNDING ACT TO PROVIDE THE STRONG, STABLE FUNDING BASE FOR NECESSARY HIGHWAY CAPITAL IMPROVEMENTS. DEVELOPMENTS HAVE OCCURRED, AND CONTINUE TO OCCUR, SO THAT REVENUES ANTICIPATED WILL NOT BE PRODUCED. THIS IN TURN MEANS, THAT WITHOUT SOME ACTION, THE SYSTEM WILL NOT BE IMPROVED TO THE EXTENT ENVISIONED WHEN THE ACT WAS SIGNED INTO LAW. THESE ARE: THE GROWTH IN GASOHOL USE; THE REDUCTION IN FUEL PRICES; AND THE LOSS OF MOTOR VEHICLE SALES TAX RECEIPTS.

1. GASOHOL. THE 1983 STATE HIGHWAY FUNDING BILL INCLUDED AN EXEMPTION OF 5 CENTS PER GALLON ON GASOHOL. THE 1982 FEDERAL ACT INCLUDED ANOTHER EXEMPTION OF 5 CENTS. LAST YEAR, THE CONGRESS PASSED THE DEFICIT REDUCTION ACT OF 1984 WHICH PROVIDED FOR AN ADDITIONAL 1 CENT PER GALLON GASOHOL SUBSIDY BEGINNING JANUARY 1, 1985. THIS 11 CENT TOTAL SUBSIDY APPEARS TO BE THE CAUSE OF A LOSS IN MOTOR FUEL TAX RECEIPTS OF APPROXIMATELY \$57 MILLION FOR THE FIVE-YEAR PERIOD, FY 1984-1988. APPROXIMATELY \$34 MILLION OF THIS LOSS WOULD BE TO THE STATE SYSTEM.

2. INDEXING. OUR FY 1984-1988 PROGRAM WAS BASED ON THE REVENUE ASSUMPTION THAT THE FUEL TAX WOULD INDEX IN FY 1986, INCREASING THE TAX RATE FROM 11 CENTS TO 12 CENTS PER GALLON BEGINNING JULY 1, 1985. SIXTY-FIVE PERCENT (APPROXIMATELY \$9 MILLION) OF THE ADDITIONAL REVENUE WOULD HAVE BEEN DISTRIBUTED TO THE HIGHWAY FUND AND 35 PERCENT (APPROXIMATELY \$5 MILLION) TO LOCAL UNITS OF GOVERNMENT. INDEXING IS NOT EXPECTED TO OCCUR FOR TWO REASONS:

THE FIRST IS A TECHNICAL MATTER. THE PUBLICATION LISTED IN 1983 HOUSE BILL 2566 IS NO LONGER PUBLISHED. THE SECOND FACTOR IS THAT THE PRICE OF MOTOR FUELS HAS NOT INCREASED AT THE RATE PROJECTED DURING THE SPRING OF 1983. WE NOW ESTIMATE IT IS LIKELY PRICES WOULD NOT INCREASE SUFFICIENTLY TO PRODUCE INDEXING UNTIL THE 1990'S, EVEN IF A TECHNICAL AMENDMENT IS ADOPTED.

THESE FACTORS TRANSLATE DIRECTLY INTO A DECREASE IN THE NUMBER OF PROJECTS PROGRAMMED.

3. SALES TAX ON MOTOR VEHICLES. THE 1983 ACT ALSO PROVIDED THAT THE SALES TAX ON NEW AND USED MOTOR VEHICLES WOULD GO TO THE HIGHWAY FUND BY A DAILY TRANSFER FROM THE GENERAL FUND. THE AMOUNT OF THE TRANSFER WAS BASED UPON A PERCENTAGE DETERMINED AS THE RATIO THAT THE SALES TAX ON NEW AND USED MOTOR VEHICLES CONTRIBUTED TO THE TOTAL SALES TAX RECEIPTS. THE AMOUNT OF THE TAX ON NEW AND USED VEHICLES TO BE TRANSFERRED TO THE HIGHWAY FUND WAS TO INCREASE INCREMENTALLY BY 5/42 PER YEAR UNTIL IT REACHED 30/42 OF THE TOTAL. I WOULD MAKE TWO POINTS.

1. THE PERCENTAGE SET IN STATUTE WAS DETERMINED DURING A RECESSIONARY PERIOD AND DOES NOT ADEQUATELY REFLECT CURRENT ESTIMATES OF THE CONTRIBUTION OF THE SALES TAX RECEIVED ON NEW AND USED VEHICLES. THAT RATIO IS SET IN LAW AT 9.19 PERCENT; THE SECRETARY OF REVENUE HAS ESTIMATED THAT FOR FY 1986 IT SHOULD BE 10.31 PERCENT. THE INTERIM COMMITTEE ADDRESSED THIS TOPIC AND RECOMMENDED THAT THE RATIO REFLECT THE SECRETARY OF REVENUE'S ESTIMATE.

2. IN ADDITION TO OUR CONCERNS THAT WE ARE NOT RECEIVING THE APPROPRIATE PROCEEDS FROM THE MOTOR VEHICLE SALES TAX, WE ARE CONCERNED ABOUT THE TOTAL.

LOSS OF THE SALES TAX PROVISION FROM HIGHWAY FUNDING, THAT IS PROPOSED IN HOUSE BILL 2081. THIS WOULD SERIOUSLY RESTRICT OUR PROGRAM.

#### KDOT REORGANIZATION

IN THE PAST TWO YEARS, THE SECRETARY HAS REVIEWED THE PROGRESS OF THE REORGANIZATION OF KDOT WHICH HE INITIATED IN JANUARY OF 1982. THE GOALS OF THE REORGANIZATION WERE TO IMPROVE THE OVERALL EFFICIENCY AND EFFECTIVENESS OF THE ORGANIZATION AND TO IMPROVE THE ABILITY TO DEVELOP STRATEGIES FOR MEETING THE CRITICAL NEEDS OF THE HIGHWAY SYSTEM. THE STABLE FUNDING PROVIDED IN THE 1983 ACT HAS ALLOWED FOR EFFICIENT MANAGEMENT.

REFINEMENTS TO THE ORIGINAL REORGANIZATION CONTINUE TO OCCUR. MOST RECENTLY WE MOVED OUR TRAFFIC ENGINEERING BUREAU INTO THE DIVISION OF OPERATIONS FROM THE DIVISION OF ENGINEERING AND DESIGN, AND WE HAVE MOVED TWO AVIATION POSITIONS FROM THE DIVISION OF PLANNING TO THE DIVISION OF AVIATION.

BY THE START OF FY 1986, KDOT WILL HAVE REDUCED THE NUMBER OF BUDGETED POSITIONS BY APPROXIMATELY 480 FROM THE FY 1982 POSITION LIMITATION. THE GOVERNOR'S RECOMMENDATION FOR THE AGENCY FOR FY 1986 SHOWS A TOTAL REDUCTION OF 477 POSITIONS, OR 13.2 PERCENT.



REST AREAS

THE DEPARTMENT HAS FULFILLED COMMITMENTS MADE TO THE 1984 LEGISLATURE RELATIVE TO OUR ROADSIDE PARK STUDY. KDOT IS REEVALUATING THE ROADSIDE PARK STUDY WITH A REVISED STUDY RELEASE DATE TO BE COORDINATED WITH A SIMILAR STUDY BEING CONDUCTED UNDER THE AUSPICES OF THE FEDERAL HIGHWAY ADMINISTRATION AND THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO).

FOR FY 1986, BOTH THE DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF CORRECTIONS WILL REQUEST FUNDING FOR A JOINT PILOT PROGRAM TO UTILIZE HONOR CAMP INMATES TO PERFORM SUPERVISED, ROUTINE MAINTENANCE AT SELECTED REST AREAS.

LEGISLATIVE REQUESTS

IN CLOSING, LET ME BRIEFLY REVIEW THE DEPARTMENT'S 1985 LEGISLATIVE PROPOSALS:

+ TEMPORARY CONSTRUCTION WORKERS.

THE ACCELERATED HIGHWAY PROGRAM HAS PRODUCED A SHORTAGE OF WORKERS FOR TESTING HIGHWAY MATERIALS, PERFORMING CONSTRUCTION SURVEYING AND GENERAL CONSTRUCTION INSPECTIONS, UNDER THE SUPERVISION OF KDOT ENGINEERING TECHNICIANS. INCREASED WORK LOADS ARE EXPERIENCED FROM EARLY SPRING THROUGH NOVEMBER. IN ORDER NOT TO INCREASE THE PERMANENT HEADCOUNT, THE AGENCY HIRES TEMPORARY EMPLOYEES TO MEET THE INCREASED WORKLOAD. UNDER EXISTING PERSONNEL REGULATIONS, THE DEPARTMENT IS LIMITED TO MAKING AN APPOINTMENT FOR 25 WEEKS OR 999 HOURS, WHICHEVER OCCURS FIRST. SINCE TEMPORARY CONSTRUCTION WORKERS ARE REQUIRED TO PUT IN OVERTIME, THEIR EMPLOYMENT IS IN EFFECT LIMITED TO ONLY 16 WEEKS. THE DEPARTMENT IS THEN REQUIRED TO FIND A NEW WORKER, LOSING ALL THE TRAINING INVESTED IN THE ORIGINAL WORKER.

THE DEPARTMENT IS REQUESTING THAT K.S.A. 75-2945 BE AMENDED TO ALLOW THE AGENCY TO APPOINT TEMPORARY CONSTRUCTION WORKERS ON HIGHWAY CONSTRUCTION PROJECTS FOR THE DURATION OF THE CONSTRUCTION SEASON.

+ STATE RAIL TRANSPORTATION PLAN.

WE ARE REQUESTING A TECHNICAL CHANGE TO THE LAW (K.S.A. 75-5025) DEALING WITH STATE RAIL PARTICIPATION. THE STATUTE CURRENTLY REFERENCES PROVISIONS OF FEDERAL LAW THAT NO LONGER EXIST. WE ARE REQUESTING LANGUAGE CHANGES TO CONFORM TO FEDERAL LAW. WE WOULD BE PLEASED TO PRESENT DETAILED TESTIMONY CONCERNING THE REQUEST AT THE APPROPRIATE TIME.

+ ADMISSIBILITY OF EVIDENCE RELATING TO NONUSE OF SEAT BELTS.

IN TORT ACTIONS, CURRENTLY, THE GENERAL RULE IS THAT EVIDENCE OF SEAT BELT USAGE MAY NOT BE INTRODUCED UNDER THE COMPARATIVE NEGLIGENCE DOCTRINE EITHER ON THE ISSUE OF CONTRIBUTING NEGLIGENCE OR IN MITIGATION OF DAMAGES. AS A RESULT, THE STATE MAY NOT INTRODUCE SUCH EVIDENCE TO SEEK REDUCED DAMAGE AWARDS AND THE STATE, AS A WHOLE, BEARS THE BURDEN FOR THE INDIVIDUAL'S FAILURE TO USE AVAILABLE PASSENGER RESTRAINTS.

THE DEPARTMENT IS COOPERATING WITH THE GOVERNOR'S OFFICE IN EFFORTS TO ENACT LEGISLATION TO PERMIT THE INTRODUCTION OF EVIDENCE OF SEAT BELT USAGE IN TORT ACTIONS.

+ MINORITY BUSINESS SET ASIDE.

SECTION 105(f) OF THE 1982 SURFACE TRANSPORTATION ASSISTANCE ACT (P.L. 97-424) REQUIRES THAT "NOT LESS THAN 10 PERCENTUM OF THE AMOUNTS AUTHORIZED TO BE APPROPRIATED UNDER THIS ACT SHALL BE EXPENDED WITH SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS." AS A RESULT OF THESE PROVISIONS, THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) INCREASED THE DISADVANTAGED BUSINESSES/MINORITY BUSINESS ENTERPRISE (DB/MBE) PARTICIPATION IN FEDERAL-AID APPORTIONMENTS.

THE INCREASES IN THE FEDERALLY REQUIRED (DB/MBE) PARTICIPATION RATES HAVE NECESSITATED THE IMPLEMENTATION OF NEW PROCEDURES AND THE INTENSIFICATION OF EXISTING METHODS. FAILURE ON THE PART OF THE STATE TO MEET THE DB/MBE PARTICIPATION LEVELS COULD ULTIMATELY RESULT IN THE WITHHOLDING OF FEDERAL HIGHWAY FUNDS.

THE DEPARTMENT IS COOPERATING WITH THE GOVERNOR'S OFFICE IN EFFORTS TO ENACT LEGISLATION WHICH WOULD PROVIDE THE DISCRETIONARY AUTHORITY TO THE DEPARTMENT TO SET ASIDE CERTAIN PROJECTS OR PORTIONS OF PROJECTS FOR BIDDING BY DB/MBE'S ONLY.